



Bill No. 17-14

Concerning: Location of Recreational Amenities and Facilities in Planned Unit Development and Mixed Use Developments

Introduced: September 19, 2017

Revised: \_\_\_\_\_ Draft No. \_\_\_\_\_

Enacted: \_\_\_\_\_

Effective: \_\_\_\_\_

Expires: \_\_\_\_\_

Frederick County Code, Chapter (s) 1-16 and 1-19

Section(s) 1-16-92 & 111; 1-19-500.9

## COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council President Bud Otis on behalf of County Executive Jan Gardner

**AN ACT** to: Amend Chapters 1-16 and 1-19 of the Frederick County Code to require that recreational amenities and facilities serving Planned Unit Developments (PUDs) and Mixed Use Developments (MXDs) are located entirely within the PUDs and MXDs.

Executive: \_\_\_\_\_ Date Received: \_\_\_\_\_

Approved: \_\_\_\_\_ Date: \_\_\_\_\_

Vetoed: \_\_\_\_\_ Date: \_\_\_\_\_

By amending:

Frederick County Code, Chapter(s), 1-16 and 1-19 Section(s) 1-16-92 & 111; and 1-19-500.9

Other: \_\_\_\_\_

**Boldface**

Underlining

[Single boldface brackets]

\* \* \*

*Heading or defined term.*

*Added to existing law.*

*Deleted from existing law.*

*Existing law unaffected by bill.*

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The County Council of Frederick County, Maryland, finds it necessary and appropriate to amend the Frederick County Code to require that all recreational amenities and facilities exclusively serving residents of PUDs and MXDs be located entirely within the respective PUDs and MXDs.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

AND BE IT FURTHER ENACTED, that these provisions shall apply to all applications for reclassification to Planned Unit Development or Mixed Use Development filed on or after the Effective Date of this Bill.

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Harold F. (Bud) Otis, President  
County Council of Frederick County,  
Maryland

**§ 1-16-92. OPEN SPACE PARCELS.**

(A) Open space parcels shall be approved by the Planning Commission through the preliminary plan process. Following the approval of the preliminary plan, open space parcels shall be platted through the final plat process.

(B) Amenities that serve the subdivision may be constructed on open space parcels, subject to meeting all zoning requirements. Examples of acceptable amenities within open space parcels include a clubhouse, swimming pool, playground, gazebo, and similar uses. **FOR PLANNED UNIT DEVELOPMENTS (PUD) OR MIXED USE DEVELOPMENTS (MXD), ANY OPEN SPACE PARCELS USED FOR AMENITIES THAT ARE INTENDED TO SERVE ONLY THE MXD/PUD RESIDENTS MUST BE LOCATED ENTIRELY WITHIN THE MXD OR PUD ZONING DISTRICT.**

(C) Open space parcels shall not revert to private ownership. Open space parcels must be owned by a homeowners association or similar organization for the benefit and use of all of the residents of the subdivision. The development of open space parcels for a private use, whether it be for residential, commercial, or industrial use is prohibited.

(D) Final plats that include open space parcels shall contain the information required for all final plats and shall bear a note declaring the name of the organization that will own and maintain the open space, the permitted use of the open space in accordance with the approved preliminary plan or site development plan, and a note stating that development of open space parcels for residential, commercial, or industrial use is strictly prohibited.

(E) An unrecorded open space plat shall become void 3 years after the application date.

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**§ 1-16-111. PARKS.**

(A) The proposed subdivision shall not be approved unless the provisions set forth below are met.

(1) Every subdivider/developer who develops a residential subdivision shall dedicate a portion of such land as set forth in this section for the purpose of providing land for neighborhood parks.

(2) The provisions of this section shall apply to all residential development districts with the exception of the R-1 zoning district and except subdivisions containing 59 or less residential lots, dwelling units, apartments or condominiums.

(3) The basis for determining the total number of dwelling units shall be the number of units approved by the county on the property included on a preliminary subdivision plan or a site plan filed with the Planning Commission.

(B) The area, location and physical characteristics of land required to be dedicated pursuant to this section shall be as follows.

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Underlining indicates matter added to existing law.

[Single boldface brackets] indicates matter deleted from existing law.

\*\*\* - indicates existing law unaffected by bill.

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(1) Seven hundred and twenty-six square feet shall be dedicated for each dwelling unit (1 acre per 60 dwelling units) shown on the preliminary subdivision plan or site development plan. The Planning Commission may allow less than the full 726 square feet, as provided for in (B)(2) below.

(2) Recreation land shall be located so as to be reasonably accessible from all lots in the subdivision and in accordance with the following. Up to 50% of the land area to be dedicated may be steep slopes, streams, lakes or floodplain. In all instances, 50% of the parkland requirements shall be suitable for dry ground recreational use. Fifty percent of the dry ground recreational area shall not exceed a grade of 5%. If no land meeting these requirements exists in the subdivision, or, if the subdivider/developer chooses to provide more than the required amount of land meeting the 5% slope criteria, modifications can be made by the Planning Commission with the recommendation of the Parks and Recreation Division.

(3) Where on-site detention and/or retention facilities are provided, the detention/retention facilities may only count as part of the recreational area requirement at the discretion of the Planning Commission, with the recommendation of the Parks and Recreation Commission.

(4) Title to recreation lands and facilities shall be held by an established homeowners association in which membership is mandatory and automatic upon conveyance of title to any lot or unit in the subdivision. The association shall be incorporated and the articles of incorporation shall be submitted to the Planning Commission for review and approval. Upon acceptance by the Department of Assessments and Taxation of the State of Maryland, appropriate notations shall be made on the plat as to date of approval and acceptance. This requirement shall not apply if the county takes title to the land pursuant to paragraph (5).

**(5) FOR PLANNED UNIT DEVELOPMENTS (PUD) OR MIXED USE DEVELOPMENTS (MXD), RECREATION LAND AND FACILITIES INTENDED TO SERVE ONLY THE MXD/PUD RESIDENTS MUST BE LOCATED ENTIRELY WITHIN THE MXD OR PUD ZONING DISTRICT.**

(65) At the discretion of the Planning Commission, and with the recommendation of the Parks and Recreation Division, where public ownership is deemed desirable, the required recreation land may be conveyed to the county.

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**§ 1-19-10.500.9. GENERAL DEVELOPMENT STANDARDS WITHIN THE PLANNED DEVELOPMENT DISTRICTS.**

The following general development standards shall be met at the time of Phase II execution unless modified by the Planning Commission as provided in § 1-19-10.500.9(D).

(A) Site and building design.

**[Subsections (A)(1) – (A)(19) remain unchanged.]**

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(20) Parks, open spaces, plazas, courtyards, green areas, recreation areas, civic spaces, and community facilities shall be designed and located in such a way as to maximize their proximity, convenience, and physical accessibility to the greatest number of potential users in the Planned Development District. **ALL RECREATION FACILITIES INTENDED TO SERVE ONLY MXD/PUD RESIDENTS MUST BE LOCATED ENTIRELY WITHIN THE PUD OR MXD DISTRICT.** Such amenities shall serve as central organizing features of the development and shall serve to enhance the pedestrian and bicycling environment of the proposed development.

(21) Existing site structures and features shall be evaluated for the feasibility of preservation and integration into the proposed development. The evaluation shall include buildings, sites, structures, or other objects as listed on or eligible for the National Register of Historic Places, Frederick County Register of Historic Places, or as listed on the Maryland Inventory of Historic Properties.

**[Subsections (B) – (D) remain unchanged.]**

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